

Internal Revenue Service

**COPY FOR YOUR
INFORMATION**

Department of the Treasury **NO PROTEST RECEIVED**
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Washington, DC 20224

Surname _____

Contact Person: _____

Telephone Number: _____

In Reference to:

OP:E:EO:T:2

Date:

AUG 27 1998

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Date 10/16/98

Surname _____

Dear Applicant,

This letter is in response to your application for Recognition of Exemption as an organization described in Section 501(c)(3) of the Internal Revenue Code, (hereafter referred to as the "second" application) as supplemented by your letters dated _____ (the "February" letter) and _____ (the "June" letter). This application was received on _____, _____. You previously had filed an application for exempt status in _____, (hereafter identified as the "Original Application") but when you did not respond to requests for additional information needed to support your application, consideration of the original application was discontinued.

You were created by articles of incorporation filed in _____ on _____. Your articles provide that you are authorized to conduct only those activities permitted by Section 501(c)(3) and upon dissolution, your assets are to be distributed to one or more organizations described in Section 501(c)(3) of the Code. You have met the organization test of Section 501(c)(3).

Although your two applications are similar, you submitted documents in connection with the original application indicating you had entered into a partnership with a person serving in capacities as officer and director. The purpose of this partnership was to develop property for use as low income housing and to pass available tax credits through to your officer/director as the investor limited partner in the partnership. Although this partnership agreement was executed, you have stated that another corporation was substituted for you in the agreement before any development activities began. Other

activities described in the first application are also described in the second application and will be summarized below.

The first activity you list in your second application is the provision of housing for low and very low income persons. By letters dated [REDACTED] and [REDACTED], you were requested to provide details about your proposed housing activity. In response to the November letter, you supplied information showing that the geographic area to be served by your housing activities is predominantly low income and agricultural. In response to the second request for details of this activity, you indicated "... (O)ur initial project will be the elderly housing project..." which you state will consist of 24 units financed by grants from a Department of Health and Human Services Social Service Block Grant being administered by the [REDACTED]. You state you expect this financing to be augmented with a Rural Development Grant. You stated in your June letter that the site for this development has not yet been determined, and no other details, such as price, construction bidding process, etc., have been provided.

The second activity you describe in your second application is a combination of worker training, and child care to make this training accessible to potential trainees. You indicate in your second application that you intend "...working with local industries to identify those skills needed by persons seeking employment..." and then to provide training in those skills. You were asked to clarify and provide details about your worker training, and the government programs you intended to utilize. You responded in your February letter "We would like to utilize programs such as the [REDACTED] program and the [REDACTED] program" and "Community Development Block Grants also provide some funds for training activities."

You state you hope to be able to provide child care services at minimal cost to training participants to offset cost of operations not defrayed by grants or donations. You indicate you would apply to the [REDACTED] to provide meals for children served, and you stated that eventually you expect this activity to replace your housing activity as taking most of the organization's time. In your

February letter, however, you stated that your proposed child care activity would consume most of the organization's time, but you did not intend that child care would be the "...eventual focus of the organization."

Because of indications of your intention to pay your officers and directors, you were asked to clarify the backgrounds of these individuals. You were further asked to specify how compensation of these individuals would be determined. In your June letter, you stated that you had decided to require the resignation of any board member you decided to employ, and you stated you would compensate them "...at a rate consistent with the local employment market."

Sections 501(a) and 501(c)(3) of the Code provide, in part, for the exemption from federal income tax of corporations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that to be exempt under section 501(c)(3) of the Code an organization must be organized and operated exclusively for charitable purposes. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (I) unless it serves a public rather than a private interest. Thus it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, shareholders, or persons controlled by such private interests.

Revenue Procedure 90-27, 1990-1 C.B. 514 sets forth procedures with regard to applications for recognition of exemption from federal income tax under sections 501 and 521 of the Internal Revenue Code.

Section 5.02 of Rev. Proc. 90-27 provides that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

You have provided information that you intend to engage in the providing of housing to low income persons. In your June letter, however, you state that you will engage in a project to provide housing for the elderly. Although you have been asked repeatedly for the details of this activity, the information you have supplied is not sufficient to determine whether this activity will be operated in a manner that will satisfy the requirements of Section 501(c)(3) of the Code.

You have been asked repeatedly to supply detailed information about the government programs you intend to participate in, including program requirements. You have responded by naming some of the programs that may be available, but you have not provided the detail of the amounts you have applied for or expect to receive, the number of persons you

[REDACTED]

expect to participate, or the type of training you expect to offer.

You stated you intend to provide child care to persons participating in your training program, but there is lack of specific information about how much you expect to charge, and what level of support you expect from other sources. We note you expect some support from [REDACTED] program to support your training activity which appears directed to individuals unlikely to benefit from child care operations.

Finally, you have stated that you may employ your present directors, but only after they resign from that capacity. In the case of your president, you have presented a detailed list of the services he is expected to perform, and the compensation he is expected to be paid. From these details, it appears one of your purposes is to provide employment opportunities for him and for other private individuals.

Based upon the above, we are unable to conclude that you will be operated exclusively for charitable purposes. Therefore, you are not described in section 501(c)(3) of the Code and are not exempt under section 501(a). Contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days from the date of this letter, and must be signed by one of your principal officers. When sending a protest or other correspondence with respect to this case, you will expedite its consideration by using the following address:

[REDACTED]
Internal Revenue Service
Attn: OP:E:BO:T:2 Room 6539
1111 Constitution Ave. N.W.
Washington, DC 20224

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[REDACTED]

You also have the right to a conference in this office after your protest statement is submitted. If you desire a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceedings unless the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the District Director for your key district. Thereafter, any questions about your federal income tax status should be addressed to your District Director. The appropriate State Officials will be notified of this action in accordance with section 6104^e of the Code.

Sincerely,

(signed) Garland A. Carter

Garland A. Carter
Chief, Exempt Organizations
Technical Branch 2

cc: [REDACTED]
[REDACTED]
[REDACTED]

	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
OFFICE CODE	[REDACTED]	[REDACTED]					
SURNAME	[REDACTED]	[REDACTED]					
INITIALS/DATE	[REDACTED]	[REDACTED]	/	/	/	/	/